HIGH COURT OF DELHI : NEW DELHI

\+ **LPA 2500/2005**

% Date of decision : November 11, 2005

\# M.C.D. ..... Appellant
! Through Ms.Richa Kapoor

versus

$ DELHI JAL BOARD & ORS. ..... Respondents
^ Through Mr.Sandeep Aggarwal
Mr. A.K. Gupta

Coram:

* **HON'BLE THE CHIEF JUSTICE**
HON'BLE MR. JUSTICE MADAN B. LOKUR

1. Whether the Reporters of local papers may be allowed to see the judgement? Yes
2. To be referred to Reporter or not?
3. Whether the judgement should be reported in the Digest?

* **MARKANDEYA KATJU, CJ (ORAL)**

This is an appeal filed by the MCD against the judgment of a learned Single Judge dated 30th September, 2005. Against the same judgment the DJB had filed an appeal, which we have disposed of by

judgment dated 28th October, 2005.

In that judgment we have, after detailed discussion on law and facts, held that it is the duty of the DJB to construct and maintain manholes properly and not at its whims and fancies.

We have referred to the relevant provisions of the Delhi Water Board Act and we held that it is the responsibility of the DJB to make manholes properly so that it is in line with the surface of the road.

Ms.Richa Kapoor has submitted that the learned Single Judge had wrongly directed that half the amount in question should be paid by DJB and the other half by the MCD. We are in agreement with that submission. The entire amount has to be paid by DJB.

We have heard Mr.Sandeep Aggarwal, learned counsel for DJB also today.

It is evident that by an inadvertent mistake in our judgment on 28th October, 2005 while we held that the responsibility of maintaining the manholes is of the DJB, we upheld the entire judgment of the learned Single Judge without noticing the fact that the learned Single Judge directed only half the amount in question to be paid by the DJB and the other half to be paid by the MCD. Since that error has been committed by us, we make it clear and direct that the entire amount should be paid

we are suo motu making a correction in our judgment dated 28.10.05 and

by the DJB.

Since the DJB is represented before us, we direct it to make the payment within six weeks from today, failing which interest @ 15% per annum will have to be paid ~~per annum~~ by it, apart from other legal consequences.

With the above observations, this appeal is disposed of.

M. Katju

CHIEF JUSTICE

Madan Lokur

NOVEMBER 11, 2005 **MADAN B. LOKUR, J**

kapil